

March 11, 2004

Danny Alvarez
Director, Transportation Industry Program
CSA Group
100 Miracle Mile, Suite 300
Coral Gables, FL 33134

RE: REQUEST FOR ADVISORY OPINION 04-34

Dear Mr. Alvarez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your request.

You requested an advisory opinion clarifying the restrictions and possible conflicts related to your current employment with CSA Group.

According to the facts submitted in your letter, you are employed with CSA Group ["CSA"], a private engineering firm, which assists private and public entities with such issues as permitting, building inspection and transportation policies and plans.

In November 2003, you requested an opinion from the Ethics Commission seeking an interpretation of the post-County employment restrictions and conflicts of interest with regard to your employment with CSA. In that inquiry, 03-115, Ethics Commission staff advised you that Section 2-11.1 (q) [commonly referred to as "the two-year rule"], prohibited you from lobbying the County for a period of two (2) years after your County employment has ceased. The inquiry also stated that the two-year lobbying prohibition did not preclude CSA from lobbying the County; however, you may not be identified or participate as part of the firm's lobbying team.

Moreover, the inquiry advised you that you were not precluded from assisting and advising CSA's municipal clients on their transportation plans or submitting routine administrative requests on their behalf; however you could not lobby the County on behalf of those entities for a period of two (2) years after your County employment has ceased.

Since the County has begun issuing solicitations for the types of services provided by CSA, you requested further clarification as to the permissible activities you may engage in on behalf of CSA and its clients. Furthermore, you asked whether on behalf of CSA you may arrange and/or participate in meetings between County staff and CSA and its professional partners for purposes of discussing upcoming business opportunities and procedures for transacting business with the County.

Under the Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1(q)(1) "Continuing application for two (2) years after County service," provides that,

No person who has served as an elected official, i.e. mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall for a period of two (2) years after his or her county employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether, direct or indirect...Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a county department or agency during the two (2) year period after his or her county service has ceased.

Section 2-11.1 (s), "Lobbying" of the Conflict of Interest and Code of Ethics Ordinance states that a lobbyist is defined as someone who seeks to encourage the passage, defeat or modifications of 1) ordinance, resolution, action

or decision of the County Commission; 2) any action, decision, recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a county board or committee.

Accordingly, you are prohibited from making presentations before County Selection Committees, County boards and agencies, the Board of County Commissioners and its boards, committees and subcommittees. This prohibition is broad and covers any activity where you attend meetings and are publicly identified as part of CSA's lobbying team. [See RQO 01-38, where the Ethics Commission opined that a former County employee could not engage in such activities, but was not prohibited from attending quasi-judicial hearings and County Commission meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team.]

The two-year prohibition however, does not preclude you from participating in the following activities:

- Advising CSA clients about County regulations and other policies relevant to CSA's clients
- Having your name appear on the firm's letterhead and Table of Organization
- Including your resume and qualifications in proposals and solicitation applications submitted to the County on behalf of CSA and its clients
- Submitting routine administrative requests or applications on behalf of CSA clients, that are solely ministerial, such as filing documents or requesting records [See RQO 03-35]
- Appearing before municipal councils, boards, agencies and committees or meeting with municipal staff on behalf of CSA

In addition, the Code of Ethics does not entirely restrict your participation in meetings with County staff on behalf of CSA and its professional partners. You may inquire about procurement procedures and practices within the County. Also, you may introduce CSA employees and partners to County staff and arrange meetings between

County staff and CSA to obtain information about generic procurement procedures and opportunities. However, you would be prohibited from arranging and participating in meetings between County staff and CSA and its professional partners in the following instances:

- If the meetings are convened for the purpose of seeking some type of action or decision from the County Commission, County Manager, board or committee
- If the meetings are convened for the purpose of persuading County personnel to take a particular course of action with regard to any issue which may come before the County Commission or any county board or committee [*See* RQO 00-145]
- If the meetings are designed to discuss client projects/proposals or make some determinations with regard to client projects/proposals
- If you arrange meetings, even if only in a liaison capacity and do not attend, so that CSA can advocate on behalf of itself or on behalf of its clients regarding solicitations and other business opportunities

In conclusion, the two-year rule prohibits you from lobbying the County for a period of two (2) years after your County employment has ceased. This would be October 31, 2005. However, you are not precluded him from submitting routine administrative requests or applications, such as filing documents or requesting information.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director